(4)

CF1002 (+)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION (C) NO 6724 /2006

PETITIONER : Rajesh Rathi
S/o. Shri Govind Lal Ji Rathi
Age about 39 years,
Proprietor: Rathi Associates,
Civil Contractors, 20, Lakhe School Complex, Gandhi Chowk, Opp. Rang Mandir, Raipur (C.G.)

P.R. No. 6586/06
Presented Sunvesh Reddy
Date 21-11-06

Versus

RESPONDENT : 1. Union of India
Through : Director General (Works),
Central Public Works Department,
Nirman Bhawan, New Delhi.

R/S
21/11/06
Clerk
THAKUR VIJAY SINGH
Asst. Solicitor General of India
CHHATTISGARH HIGH COURT
High Court Campus, Bilaspur (C.G.)

2. The Executive Engineer,
O/o. the Executive Engineer,
Raipur Central Division, Central Public Works Department, C-D Block, 3rd floor, Room No. 304-305, Central Excise and Customs Office Building, Tikrapara, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226 / ~~227~~ OF THE CONSTITUTION OF INDIA

(67)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Ld:P:(C)...6724 सन् / 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB :- Hon'ble Mr. V.K. Shrivastava
& Hon'ble Mr. Dhirendra Mishra, JJ

16.01.2007

Shri Sumesh Bajaj, counsel for the petitioner.

Shri S.K.Beriwal, Counsel for respondents No. 1 & 2.

Learned counsel for the respondents frankly concedes that the law enunciated by the Hon'ble Apex Court in ***New Horizons Limited & Another Vs. Union of India & Others*** reported in ***(1995)1 Supreme Court Cases 478*** squarely covers the instant case whereby a person who acquires experience as a member of any partnership firm, his experience so acquired, for his individual participation cannot be ignored.

Executive Engineer, Raipur Central Division, Central Public Works Department, Raipur vide memo No. 54 (47)/RCD/06-07/1257 Raipur, dated 18.11.2006 refused to accept credential of petitioner acquired by him while working as active partner of M/s. Singhania Enterprises. feeling aggrieved the instant petition for following substantial relief :

> That the impugned order dated 18.11.2006, Annexure –P/9 , passed by the Respondent No.2, be set aside in the interest of justice and the Respondents be directed to consider the credentials submitted by the petitioner and permit him to take part in the tender proceedings.

(पीछे देखिये)

(68)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.(C) No. 6724/2006 **सन्**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Admittedly petitioner was active partner of M/s. Singhania Enterprises doing business of civil contract but petitioner's credentials were not considered by the respondents.

Hon'ble the Apex Court in ***New Horizons Limited & Another Vs. Union of India & Others,*** (Supra) at Page No.492 in Para 23 observed as below :

> ***"It is possible to visualize a situation where a person having past experience has entered into a partnership and the tender has been submitted in the name of the partnership firm which may not have any past experience in its own name. That does not mean that the earlier experience of one of the partners of the firm cannot be taken into consideration. Similarly, a company incorporated under the Companies Act having past experience may undergo reorganization as a result of merger or amalgamation with another company which may have no such past experience and the tender is submitted in the name of the reorganized company. It could not be the purport of the requirement about experience that the experience of the company which has merged into the reorganized company***

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...W.P.(C)...6724/ **सन्** / **200**6

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

cannot be taken into consideration because the tender has not been submitted in its name and has been submitted in the name of the reorganized company which does not have experience in its name. Conversely there may be a split in a company and persons looking after a particular field of the business of the company form a new company after leaving it. The new company, though having persons with experience in the field, has no experience in its name while the original company having experience in its name lacks persons with experience. The requirement regarding experience does not mean that the offer of the original company must be considered because it has experience in its name though it does not have experienced persons with it and ignore the offer of the new company because it does not have experience in its name though it has persons having experience in the field.

Having considered the law laid down by Hon'ble the Apex Court admission of learned counsel for the respondent as well as all the facts and circumstances of the case the petitioner's prayer for grant of substantial relief as mentioned above is allowed and accordingly the writ petition is disposed of.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Dhirendra Mishra
Judge

(पीछे देखिये)

19/01/17 3/11/17 2/8/17 28-02-26